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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,392	03/08/2004	Mathieu Audet	RP-01366-US3	1894

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EXAMINER
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BROWN, DREW J

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 08/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/796,392		AUDET, MATHIEU	
	<b>Examiner</b>		<b>Art Unit</b>	
	Drew J. Brown		3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date: _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/20/05</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Objections*

1. Claim 10 is objected to because of the following informalities: In line 2, "cargo" should be changed to --cargo rack--. Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-9 and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tweet (U.S. Pub. No. 2004/0031640 A1) in view of Hanagan (U.S. Pat. No. 4,953,911).

Tweet discloses a straddle-type vehicle (100) comprising a frame (Figure 1), two wheels in the front (106) defining a front axis, two wheels in the rear (108) defining a rear axis, wherein the wheel base is defined by the front and rear axis is between 55 and 78 inches (paragraph 31). An engine (120) is disposed on the frame for driving at least one of the wheels, handlebars (110) are disposed on the frame for steering at least one of the wheels, a straddle driver seat (112) is disposed on the frame, a straddle passenger seat (114) and a backrest (122) are disposed on the frame rearward of the driver seat, and a cargo rack is disposed rearward of the passenger seat (Figure 4).

Tweet also discloses that each of the wheels includes a low-pressure balloon tire (paragraph 22) but does not disclose that the air pressure is between 1.5 and 4 psi. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the pressure between 1.5 and 4 psi in order to provide proper traction on different terrains.

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Tweet discloses the claimed invention as discussed above but does not disclose that the passenger seat is transformable between a first configuration to accept a passenger and a second configuration to accept cargo.

Hanagan, however, does disclose a passenger seat (20) that is transformable between a first substantially upright configuration to accept a passenger (Figure 4) and a second substantially horizontal configuration to accept cargo (Figure 1). The backrest is pivotal with respect to the seat portion (Figure 6), and the backrest is substantially level with the cargo rack when in the horizontal direction. A contour of the seat portion and a contour of the backrest of the passenger seat are configured to provide back support for the driver seat when the passenger seat is in the first (Figures 2 and 4) and second (Figures 1 and 2) configuration, respectively. Hanagan also discloses a locking mechanism (60) constructed and arranged to lock the backrest into a desired orientation.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Tweet in view of the teachings of Hanagan to have a transformable seat so that a variety of sizes and shapes of cargo can be secured to the cargo rack behind the rear seat of the ATV when a passenger is not occupying the seat.

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tweet in view of Hanagan, and further in view of McNichol, Jr. et al. (U.S. Pat. No. 3,873,127).

The combination of Tweet and Hanagan discloses the claimed invention as discussed above but does not disclose that an auxiliary rack is mounted to a rear of the backrest such that the auxiliary rack is substantially level with the cargo rack when the backrest is in the horizontal orientation.

McNichol, Jr. et al., however, discloses an auxiliary rack (10) mounted to a backrest (94). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the invention of Tweet in view of the teachings on McNichol, Jr. et al. to have an auxiliary rack mounted to the rear of the backrest so that when the backrest is in the horizontal position, additional storage space is available to transport more cargo without damaging the backrest.

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5. Claims 1-9, 11, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tweet in view of Seibold (U.S. Pat. No. 6,601,900 B1).

Tweet discloses a straddle-type vehicle (100) comprising a frame (Figure 1), two wheels in the front (106) defining a front axis, two wheels in the rear (108) defining a rear axis, wherein the wheel base is defined by the front and rear axis is between 55 and 78 inches (paragraph 31). An engine (120) is disposed on the frame for driving at least one of the wheels, handlebars (110) are disposed on the frame for steering at least one of the wheels, a straddle driver seat (112) is disposed on the frame, a straddle passenger seat (114) and a backrest (122) are disposed on the frame rearward of the driver seat, and a cargo rack is disposed rearward of the passenger seat (Figure 4).

Tweet also discloses that each of the wheels includes a low-pressure balloon tire (paragraph 22) but does not disclose that the air pressure is between 1.5 and 4 psi. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the pressure between 1.5 and 4 psi in order to provide proper traction on different terrains.

Tweet discloses the claimed invention as discussed above but does not disclose that the passenger seat is transformable between a first configuration to accept a passenger and a second configuration to accept cargo.

Seibold, however, does disclose a passenger seat (10) that is transformable between a first substantially upright configuration to accept a passenger (Figure 4) and a second substantially horizontal configuration to accept cargo (Figure 5). The backrest is pivotal with respect to the seat portion (via pivot 40), and the backrest is substantially level with the cargo rack when in the horizontal direction. The seat portion (12) of the passenger seat is movable between a first position (Figure 4) and second position (Figure 5), the second position being lower than the first position when the backrest is in the upright orientation and the second position when the backrest is in the horizontal orientation. Seibold also discloses a locking mechanism (56) constructed and arranged to lock the backrest into a desired orientation.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Tweet in view of the teachings of Seibold to have a transformable seat so that the cargo rack and the rear of the backrest are flush. This allows

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a variety of sizes and shapes of cargo to be secured on a flat surface to the cargo rack behind the rear seat of the ATV when a passenger is not occupying the seat without, which reduces the possibility of damage to the cargo while traversing rough terrain.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rondeau et al. discloses a similar ATV. Ziegler, Katsuoka, Saiki, Taki et al., and Funa bashi et al. disclose similar seats.

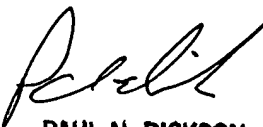
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew J. Brown whose telephone number is 571-272-1362. The examiner can normally be reached on Monday-Thursday from 8 a.m. to 4 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Drew J. Brown  
Examiner  
Art Unit 3616

db  
8/24/06

 8/28/06  
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